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OGC HAS REVIEWED.

CONFIDENTIAL

23 JAN 1961

MEMORANDUM TO: Office of General Counsel

ATTENTION : Mr. Lawrence R. Houston

SUBJECT : Shipments of Household Effects from
Overseas Areas

REFERENCE : (a) OGC Opinion 59-5, dated 11 June 1959
(b) OGC Memorandum, dated 19 August 1960 (OGC/B-266)
(c) OGC Memorandum, dated 28 November 1960 (OGC 60-1493)

1. Our memorandum of 14 November 1960 requested clarification of an apparent conflict between two opinions issued by your office in 1959 and 1960, references (a) and (b) above. The subject concerned the limitation on the weight of effects which may be shipped at Government expense for an employee from an emergency area to the United States on a permanent change of station. Our specific question was whether or not the weight of effects shipped at Government expense may be combined with the weight of effects stored at Government expense to determine the maximum allowable weight for shipment at Government expense.

2. The Finance Division has followed the practice of combining the weight of effects stored with the weight of effects shipped to determine that portion of the cost of shipment to be borne by the Government, with any excess cost charged to the employee. This practice is supported by your opinion OGC 59-5, part of which is quoted below:

"There is no legal barrier to an employee shipping to headquarters household effects acquired in the field as long as the combined weight of what is shipped and what is stored at Government expense does not exceed the maximum allowable for transfers to stations where Government quarters are not provided." (Emphasis supplied.)

Your memorandum of 19 August 1960 contains the following which appears to be in direct conflict with the earlier expressed opinion:

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"However, neither paragraph 7 nor any other portion of the regulations provide that the weight allowance for shipment shall be reduced by the weight of goods stored." "Additionally, it is our opinion that under the regulations now controlling the basic weight allowance of effects of an employee which may be shipped at Government expense to the United States from an overseas area may not be diminished by the weight of effects which the employee has been allowed to store at Government expense while assigned to a post overseas."

3. Under the latter opinion, an employee could store at Government expense household effects weighing up to the maximum weight allowable and on his return from an overseas tour ship to the United States any amount of household goods acquired overseas again up to the maximum weight allowable. We feel this is inconsistent with the intent of the Agency's regulation and is inconsistent with the general practice followed throughout the Government.

25X1A 4. Regulation paragraph 5 b states "If propriety of any expenditure depends upon the interpretation of Government statutes or Agency regulations, the certifying officer will refer the question to the General Counsel, whose opinion shall be final insofar as the legal aspects are concerned." The propriety of certifying expenditures for payment of transportation costs resulting from the movement of an employee's household effects to the United States and of the request to the employee for reimbursement of the costs incident to any excess weight has not, to our knowledge, been formally presented to your office prior to our memorandum of 13 July 1960. However, we feel the procedure followed by the Finance Division whereby the employee was billed for excess weight (the excess over the combined weight of what was stored and what was shipped) was correctly established on the basis of the Agency regulation then in effect and found later legal sanction in your opinion OGC 59-5 at the time of its issuance.

5. In view of the apparent conflict between the two opinions, it is requested the question again be considered and your opinion given as to the legality of the Agency paying the cost of transporting that portion of an employee's household effects shipped to the United States exceeding the difference between the weight of effects stored at Government expense and the maximum weight allowable prescribed by the Agency's regulation.

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Deputy Comptroller

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Subject: Shipments of Household Effects from
Overseas Areas

13 January 1961

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